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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,790	10/14/2003	Kikuo Yoneoka	ZUIKP0108US	4218
43076	7590	02/03/2006	EXAMINER	
MARK D. SARALINO (GENERAL) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE, NINETEENTH FLOOR CLEVELAND, OH 44115-2191			AFTERGUT, JEFF H	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/684,790

Applicant(s)

YONEOKA ET AL.

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-12, drawn to a device for placing an elastic including a specific positioning mechanism including an indicating section and a guide responsive to the indicating section , classified in class 156, subclass 361.
  - II. Claims 13-20, drawn to a placement device for placing an elastic including a specific nip arrangement wherein the rolls of the nip are moveable, classified in class 156, subclass 496.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group II can be used to apply elastic upon a substrate wherein there is no reciprocation of the elastic guide and the elastics are applied in a straight configuration wherein the movement of the nip rolls allowed one easy start up of the operation for example which is a separate utility from that of group I. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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5. During a telephone conversation with Mark Saralino on 1-25-06 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-20 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakakado et al in view of Ruehl.

Nakakado et al suggested that it was known at the time the invention was made to apply an elastic into a nip of rolls wherein the system for application included a guide section for guiding an elastic member including guides 5a and 6a and guide arms 5 and 5 for the elastic. The device additionally included a first nip roll and a second nip roll for (the nip rolls are identified at 7) into which the elastic and a web are pressed to secure

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the elastic to the web. The reference additionally suggested that a transfer section was provided with included a first mover 13 and a second mover 14 for moving the guides across the web for proper placement thereon. The reference additionally suggested that the movement of the guides was controlled in order to facilitate the proper placement of the elastics with a controller 50 which controlled the motion of belts 15 and 16 and the movement of the guides. More specifically motor 51 was controlled in order to move the belts to the desired position and included sensing means to sense the position of the elastic which included tracing the pattern the elastic was to make a feedback controller as well as sensors to sense the web speed. The applicant is referred to Figure 7 of the reference and paragraphs [0073]-[0082]. Additionally note that the reference suggested that the movement of the guide was capable of being controlled with a cam member , see paragraph [0093]Figures 1 and 2. the reference failed to teach the specific use of a sensor to sense the position of the reciprocating guide which was controlled via the controller to regulate the position of the elastic.

Ruehl suggested that those skilled in the art at the time the invention was made would have incorporated a control mechanism in a stacker for a disposable diaper which included a sensor or a cam which triggered the movement of the stack. The applicant is more specifically referred to column 6, lines 45-50. one skilled in the art viewing the same would have understood that the use of a sensing means as opposed to a cam mechanism would have been an alternate expedient which was functionally equivalent to the use of a cam in light of the statements made by Ruehl. One skilled in the art would have understood that the use of a sensor would have eliminated the

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various mechanical means associated with the cam as well as the associated wear from the same. Additionally, use of a sensor would have made the changing of the placement of the elastic easier than the use of a cam. The use of a cam would require replacement of the cam with a new cam while the use of a sensor merely requires either the displacement of the sensor or a changing of the programming to indicate when reciprocation was to take place (which would have been simpler than cam replacement). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a sensor for sensing the relative position of the elastic and send information from the sensor back to the controller to control the movement of the reciprocation of the elastic guide mechanism as the reference to Ruehl suggested the equivalence of a cam or a sensor for such controlling purposes in the art and such would have facilitated the changeover in the diaper sizes as discussed above in the operation of applying elastics to a web in the manufacture of a disposable diaper as taught by Nakakado et al.

With respect to claim 2, note that the device of Nakakado et al suggested the use of a motor capable of rotating in a first and opposite second direction whereby the moving direction of the guide section was changed by the change in rotation of the motor. Additionally note that Ruehl suggested the use of the sensors which one skilled in the art would have understood would have controlled the reciprocation of the guide by regulation of the motor. Regarding claim 3, note that the use of a plurality of sensors would have been within the purview of the ordinary artisan as such would have facilitated the placement of the elastic in differing paths for different size diaper

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configurations. Regarding claim 4, note that the nip rolls are rotated in Nakakado et al and therefore they are moved. Regarding claims 5 and 6, note that the spacing between the nip rolls and the elastic guides can be adjusted in Nakakado et al by adjusting the spacing there between by changing the placement of the elastics into the nip.

Regarding claim 7, the feeding of the elastic onto two webs which sandwich the elastic there between was well known in the art and is taken as conventional in the art.

Regarding claims 8 and 9, the application of adhesive upon the web prior to introduction into the nip for securing the elastic is taken as well known and conventional in the art and was suggested by Nakakado et al. regarding claim 10, heat sealing to secure the elastic is taken as well known and conventional in the art. Applicant is advised that the claim does not define any additional part of the device in a positive sense and that the claim should recite that the mechanism included the heat sealing device therein.

Regarding claim 11, note that the use of an embossing arrangement was known in the art for bonding the webs together and to provide the nip arrangement as embossing rolls would have been within the purview of the ordinary artisan. Additionally regarding claim 12, the chassis of the diaper assembly would have been be cut in a cyclical manner dependent upon the placement of the elastics and the pads thereon. To further control the cutting mechanism in association with the elastic placement would have been obvious to one of ordinary skill in the art.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nomura, Blenke et al and Merkatoris both taught the feeding of

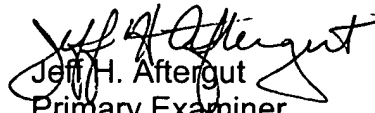
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elastic into a nip arrangement Kojo et al has a similar disclosure to that of Nakakado et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeff H. Aftergut  
Primary Examiner  
Art Unit 1733

JHA  
February 1, 2006